

Murray Hill PSC, LLC  
Petitioner

\*

PLANNING BOARD OF

\*

HOWARD COUNTY, MARYLAND

ZB 1081M

\* \* \* \* \*

**MOTION:** *To recommend approval of the petition request for a Zoning Map Amendment to rezone 18.62 acres from the PSC District to the R-SA-8 District, in accordance with the Department of Planning and Zoning recommendation.*

**ACTION:** *Recommended Approval; Vote 4 to 0.*

\* \* \* \* \*

### RECOMMENDATION

On November 19, 2009, the Planning Board of Howard County, Maryland, considered the petition of Murray Hill PSC, LLC for a Zoning Map Amendment to rezone 18.62 acres of land from the PSC District to the R-SA-8 District. The subject property is located on the east side of Gorman Road approximately 1,000 feet northeast of Skylark Boulevard in the Sixth Election District, and is described as Tax Map 47, Grid 2, Parcel 4.

The petition and the Department of Planning and Zoning Technical Staff Report and Recommendation were presented to the Board for its consideration. The Department of Planning and Zoning recommended approval based on findings that the assumptions made by the Zoning Board in its approval of the PSC District have proven to be incorrect over time.

The Petitioner was represented by Andrew Robinson, Esq. No one testified in opposition to the petition. Also present and representing the Petitioner was Paul Revelle.

Mr. Robinson said he concurred with the conclusions of the Technical Staff Report and the case is similar to another case in which the Planning Board recently recommended approval for rezoning from PSC to R-SA-8.

Paul Revelle stated that after the PSC zoning was approved and he requested and received additional density as part of an effort to preserve the economic viability of the project. However, even with the site development plan process underway and costs incurred with site, the drastic economic downturn in the Senior Housing market and the lack of financing available for such projects has made the PSC zoning unusable. Mr. Revelle noted that his parcel is not eligible for the relief afforded by ZRA 103 permits the PSC zoning to be converted to an overlay zone and the underlying zoning applied in times of fluctuating market conditions. Such parcels are permitted to return to the use of the underlying zoning up until final development plan approval.

Additionally, Mr. Revelle noted that there is an eleven-year supply of age-restricted adult housing units in the pipeline and the only viable solution for the property is townhouses in the current market. He said townhouses are appropriate for entry level BRAC housing that will be needed along the Rt. 1 corridor

and that the proposed development would have the same MIHU requirements. Lastly, Mr. Revelle spoke of recent Planning Board support for another PSC property facing similar circumstances.

No one else spoke for or against the petition.

The Board questioned Mr. Revelle with respect to the potential use of his property with the alternative uses permitted in PSC. Mr. Revelle informed that Board that the other two permitted uses are not feasible. Nursing Homes are tightly regulated by the State and obtaining approval is not likely and is a time consuming process. Assisted Living is in a similar situation as Age Restricted with not being able to obtain funding.

**Motion:**

David Grabowski made a motion to approve the petition in accordance with the recommendation of the Technical Staff Report. Tammy CitaraManis seconded the motion.

**Discussion:**

The Board reviewed its decision in the similar case and discussed the County's newly enacted policy addressing the PSC zoning's shortcomings and the County's willingness to afford relief. Members noted this property would have been eligible for relief under ZRA 103 if it had not been so far into the development process. The Board also restated its concern, expressed over the years, about the potential for a Senior Housing glut.

The Board agreed that property's PSC zoning deprived the petitioner of all reasonable use of the property and that the property cannot be sold or used for any of the zone's permitted uses given the 11-year housing glut, non-existent demand for the product, and the collapse of available financial backing for any of the PSC permitted uses. The Board finds "mistake" as evidenced by the County's failure to recognize the problems with the PSC zone, its actions to in ZRA103 to reduce the impact yet not extend the option for relief to properties anywhere in the development process, and existing economic conditions.

The Board was in agreement that the R-SA-8 District is a reasonable category for the property and that the intended townhouse development is compatible with surrounding neighborhoods. Ultimately, the Board determined that with ZRA 103 not including a grandfathering provision, the developer is being deprived of the reasonable use of the property with the PSC zoning.

**Vote:**

The motion for approval of the petition in accordance with the recommendation of the DPZ Technical Staff Report passed by a vote of 4 to 0.

For the foregoing reasons, the Planning Board of Howard County, Maryland, on this 12<sup>th</sup> day of December, 2009, recommends that Zoning Board Case No. ZB 1081M, as described above as described above, be **APPROVED**.

HOWARD COUNTY PLANNING BOARD

Linda Dombrowski (DR)  
Linda A. Dombrowski, Chairperson

David Grabowski  
David Grabowski, Vice Chairperson

Tammy CitaraManis (DR)  
Tammy J. CitaraManis

Paul Yelder  
Paul Yelder

ATTEST:

Marsha S. McLaughlin  
Marsha S. McLaughlin  
Executive Secretary